

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION

BOARD ORDER NO. R6V-2012-0003

PARTIAL RESCISSION OF WASTE DISCHARGE REQUIREMENTS
IN
BOARD ORDER NO. R6V-2010-0019

FOR

GREEN VALLEY FOODS PRODUCTS, INC. AND HECTOR HUERTA
CHEESE PRODUCTION FACILITY,
CLASS II SURFACE IMPOUNDMENTS

_____SAN BERNARDINO COUNTY_____

The California Regional Water Quality Control Board, Lahontan Region (Water Board) finds:

1. Discharger and Facility Description

Green Valley Foods Products, Inc. and Hector Huerta (collectively Dischargers) operate a cheese production facility, which processed milk (both liquid and solid) into rounds of Mexican style hard cheese known as Cotija. The cheese production facility is located on two parcels, owned by Hector Huerta, located at 25684 and 36293 Community Boulevard, Barstow, San Bernardino County, California (Assessor's Parcel Numbers 0497-221-14-0000 and 0497-221-13-0000, respectively.

2. An underground pipeline transported untreated wash water (waste) from the cheese production facility located at 25684 Community Boulevard to the unimproved parcel located at 36293 Community Boulevard. The waste consisted of water and cleaning solution used for cleaning the cheese-making equipment and the rinsate from the milk delivery truck discharge spigots. The Dischargers discharged the waste directly to the land on the unimproved parcel, where it is allowed to percolate.

3. Permit History

On May 13, 2010, the Water Board adopted Board Order No. R6V-2010-0019, prescribing waste discharge requirements for the Facility's waste discharges. Board Order No. R6V-2010-0019 specified prohibitions, specifications, and provisions necessary to protect the beneficial uses of the surface and ground waters within the Middle Mojave River Valley Groundwater Basin.

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4. Board Order No. R6V-2010-0019 required that by March 30, 2011, no discharge must occur outside of a Class II Surface Impoundment. The Board Order required the Discharger to design a Class II Surface Impoundment, as defined in Title 27, section 20250, in order to contain the waste, which was classified under Water Code 13173 as designated waste.
5. On June 24, 2011, Green Valley Foods submitted a report, informing the Water Board that due to costs of operation and management, it did not believe it was feasible to construct a Title 27 impoundment for the waste. The Discharger filed a new report of waste discharge on August 31, 2011, which the Water Board concluded was incomplete and required supplemental information.
6. On November 8, 2011, the Water Board prosecution team issued a draft Cease and Desist Order that it planned to take before the Water Board at its January 2012 board meeting, requiring that the Discharger "cease and desist forthwith from discharging wastes or threatening to discharge wastes, in violation of waste discharge requirements prescribed by Board Order No. R6V-2010-0019."

7. Request for Rescission

On December 5, 2011, Mr. Huerta, as President of Green Valley Foods Products, Inc., notified the Water Board Executive Officer, Harold Singer, that operations of the cheese processing facility and all waste discharges had ceased, and requested that Board Order No. R6V-2010-0019 be rescinded. Mr. Huerta stated that "Prior to resumption of manufacturing activities either a zero discharge alternative or a long term fully permitted facility will be constructed."

8. On December 20, 2011, Mr. Huerta's attorney notified the Water Board via email that Green Valley Foods Products, Inc. operated its cheese processing facility the week prior, and planned to continue operating throughout the week of December 19, 2011, and that all wastewater was collected, stored, and transported to the K Pure waste treatment facility in San Bernardino County. The Discharger anticipated that its consultants would have a short-term alternative in place in January 2012 to minimize or concentrate residual waste, which would then be transported and disposed of off-site.
9. To ensure Water Board's regulatory authority over the Discharger until the development of a waste discharge alternative to surface impoundments is completed and consistent compliance with the requirements and prohibitions in Board Order No. R6V-2010-0019 is demonstrated, the Water Board is denying the request for total rescission of Board Order No. R6V-2010-0019.

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However, given the oral and written assurances by the Discharger that they do not intend to utilize Title 27 surface impoundments for waste discharge disposal, the Water Board finds rescission of those portions of Board Order No. R6V-2010-0019 that relate to the surface impoundments is appropriate.

10. Water Code Requirements

Water Code section 13264(a) requires that "No person shall initiate any new discharge of waste ... prior to filing of the report [of waste discharge] required by Section 13260." Section 13265(a) of the Water Code states that "Any person discharging waste in violation of Section 13264, after such violation is called to his attention in writing by the regional board, ... may be liable civilly." This Order constitutes notice pursuant to Water Code 13265 that the Dischargers may be liable civilly for discharges from his cheese-processing facility prior to filing a report of waste discharge, pursuant to Water Code section 13260.

11. California Environmental Quality Act (Public Res. Code §§ 21000 et seq.) (CEQA)

Actions by regulatory agencies to partially rescind permit are exempt from the provisions of the CEQA, in accordance with section 15321, title 14 of the California Code of Regulations.

12. Public Meeting

In its agenda, which was available on the Water Board's website at least 10 days in advance of the meeting and mailed to the Discharger and other interested persons, the Water Board provided notice of its intent to consider consider rescinding Board Order No. R6V-2010-0019 at its January 11-12, 2012 public meeting. On January 11, 2012 in Apple Valley, the Water Board held a public meeting to receive testimony and comments concerning this proposal to rescind Board Order No. R6V-2010-0019, and has considered all the comments received.

13. Ability to Petition this Action to the State Board

Any person aggrieved by an action of the Water Board that is subject to a review as set forth in California Water Code section 13320, subdivision (a), may petition the State Water Resources Control Board (State Water Board) to review the action. Any petition must be made in accordance with California Water Code section 13320 and California Code of Regulations, title 23, section 2050 and following. The State Water Board must receive the petition within 30 days of the date the action was taken, except that if the thirtieth day

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following the date the action was taken falls on a Saturday, Sunday, or state holiday, then the State Water Board must receive the petition by 5:00 p.m. on the next business day. Copies of the law and regulation applicable to filing petitions may be found on the internet at:
http://www.waterboards.ca.gov/public_notices/petitions/water_quality/index.shtml or will be provided upon request.

IT IS HEREBY ORDERED THAT:


- I. The following provisions of Board Order No. R6V-2010-0019, and Monitoring and Reporting Program No. R6V-2010-0019, are rescinded:

From Board Order - II.D, II.E, II.F, III.A.2, III.A.3, III.A.4; III.B (all sections); III.C; III.D (all sections); III.E.; IV.C.; IV.D; IV.E.; V.B (all sections); V.C.; V.D; V.E (all sections); V.F.; V.G.; and the table summary of the reporting requirements on p. 30.

From Monitoring and Reporting Program – I (all sections), II – first paragraph remove all language except “The Discharger must also perform the following monitoring:” II.A.1., II.A.2., II.A.3 – remove “to the surface impoundment”, II.A.4, II.B, II.C (all sections), II.D (all sections), III (all sections), IV.D.1, IV.D.2, IV.D.3, IV.D.4 – remove all language except “flow monitoring”, IV.D.5, IV.D.6, IV.E.1, IV.E.2, IV.E.3, IV.E.4, IV.E.7, IV.E.8, IV.E.9, IV.F, IV.G (all sections), and IV.H (all sections).

- II. Pursuant to Water Code section 13264, the Dischargers shall not initiate any new discharge of waste prior to the filing of a complete report of waste discharge as accepted by the Water Board staff and shall not initiate any new discharge of waste after filing a complete report of waste discharge but before whichever of the following occurs first:
- a. The issuance of waste discharge requirements pursuant to Water Code section 13263;
 - b. The expiration of 140 days after compliance with Water Code section 13260 if the waste to be discharged does not create or threaten to create a condition of pollution or nuisance;
 - c. The issuance of a waiver pursuant to Water Code section 13269.

I, Harold J. Singer, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Lahontan Region, on January 11, 2012



HAROLD J. SINGER
EXECUTIVE OFFICER